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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,629	06/27/2003	Chuck Kurtz	27799-023	8458

35437 7590 07/13/2005

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NEW YORK, NY 10017

EXAMINER
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SHAPIRO, JEFFERY A

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center"><b>Office Action Summary</b></p>	<p><b>Application No.</b></p> <p>10/608,629</p>	<p><b>Applicant(s)</b></p> <p>KURTZ ET AL.</p>	
	<p><b>Examiner</b></p> <p>Jeffrey A. Shapiro</p>	<p><b>Art Unit</b></p> <p>3653</p>	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 April 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-18 and 20-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-18 and 20-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4-18, and 20-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Watanabe et al (US 5,543,607). Watanabe discloses a self-checkout system having a conveyor (51) with sensors (52a) that cause the belt of the conveyor to start transporting the items forward and past a scanner (53) and then sensors (52b) that cause the belt to stop upon sensing the item. Also, if the scanner cannot read the bar code on the item, the belt is stopped. Watanabe also discloses a sensor (63) that detects the presence of an operator.

Note that the operator/purchaser is in effect “sensed” when he/she places an item onto the conveyor belt. See also abstract of Watanabe, which describes Applicant’s claimed apparatus. Note also that processing areas (54) in figure 1A or (302) in figure 1B. Note also figure 3, which describes stocker area (10), in which the conveyor moves either forward or reverse directions. See col. 10, lines 42-53. Processing is considered to include either preparing items for entry into or exit out of the machine. Note that the sensors that sense movement, for example, as described in col. 10, lines 42-53, are considered to be, at the least, the functional equivalent of proximity

sensors. Note also that Applicant does not provide any specific reasons for using proximity sensors over other types of sensors.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 4-18, and 20-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe in view of Begum et al (US 5,420,606).

Watanabe discloses a self-checkout system having a conveyor (51) with sensors (52a) that cause the belt of the conveyor to start transporting the items forward and past a scanner (53) and then sensors (52b) that cause the belt to stop upon sensing the item. Also, if the scanner cannot read the bar code on the item, the belt is stopped.

Watanabe does not expressly disclose, but Begum discloses the use of a motion sensor to sense motion of a customer and "wake up" or deactivate a device. See Begum, col. 6, lines 11-17, which discuss use of motion detector (62) to detect a shopper. Begum in col. 6, lines 35-38 disclose mounting such a motion detector (70) on a checkout counter (41).

The suggestion/motivation would have been to "conserve power" by turning off the conveyor belt when it is not needed. See Begum, col. 6, lines 11-17.

***Response to Arguments***

5. Applicant's arguments filed 4/14/05 have been fully considered but they are not persuasive. Applicant asserts that Watanabe does not disclose the claimed invention. However, as discussed above, Watanabe discloses all of the limitations found in the independent claims, as well as the dependent claims. In particular to Applicant's assertions, Watanabe discloses a processing area located downstream from a conveyor with a start sensor, the start sensor being the sensors (52a) and the stop sensors being (52b). See Watanabe, col. 8, lines 16-27. See also col. 8, lines 28-47, which describes the conveyor belt moving in either forward or reverse directions. Therefore, an argument can be made for either element (54) or element (302) being construed as the processing area. Watanabe's system allows a customer/operator to place items on the pre-processing area, such as (54) or (302) or (10) and then place them on the conveyor which moves them past scanner (53a-g).

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Shapiro whose telephone number is (571)272-6943. The examiner can normally be reached on Monday-Friday, 9:00 AM-5:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (571)272-6944. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jeffrey A. Shapiro  
Examiner  
Art Unit 3653

July 10, 2005



DONALD P. WALSH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600